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|---|---------------|----------------------|---------------------|------------------|
| APPLICATION NO.   | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/537,923  | 02/14/2006    | John Window          | SERJ 70818          | 7139             |
| 29694   | 7590          | 08/07/2008           | EXAMINER            |                  |
| PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI LLP<br>ONE OXFORD CENTRE, 38TH FLOOR<br>301 GRANT STREET<br>PITTSBURGH, PA 15219-6404 |               |                      | CHAPMAN, JEANETTE E |                  |
| ART UNIT  | PAPER NUMBER  |                      |                     |                  |
|   |               | 3633                 |                     |                  |
| MAIL DATE   | DELIVERY MODE |                      |                     |                  |
| 08/07/2008  | PAPER         |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |  |                                     |
|------------------------------|--|-------------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/537,923   | <b>Applicant(s)</b><br>WINDOW, JOHN |
|                              | <b>Examiner</b><br>Jeanette E. Chapman | <b>Art Unit</b><br>3633             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 November 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,6,7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,6 is/are rejected.
- 7) Claim(s) 5,7 and 9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date 11/10/2005
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

2645114

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The locating recess recited in the last line of claim 4 lacks a positive antecedent in any of the preceding claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

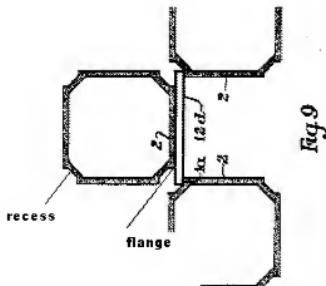
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Amirikian (2645114).

Amirikian discloses

- a modular building unit comprising a skeletal shell lined to define the walls of a room or rooms
- the building units when stacked in a vertical and horizontal array cooperating to form the linked rooms of a building; see figure 4
- for the precise location of one module or part thereof vertically over another in the resulting building,

- each module is provided around the perimeter of the base with a downwardly extending location flange 12d
  - each module is also provided around its top perimeter or part thereof with a peripheral recess adjacent 1a, into which the flange of a vertically adjacent building module can accurately locate. See figures 6 and 10
  - the peripheral recess has an inside wall which slopes upwardly and inwardly relative to the building module which is used to guide the vertically adjacent building module into position when stacking the modules one above the other during erection of the building. See figures 9 and 10
- the modular unit comprises a skeletal shell of structural steel uprights and cross members 4 lined to define the walls of the room



The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 AND 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amirikian in view of Grogan (5044544)

Amirikian lacks the load bearing boarding that extends close to but not up to the outside perimeter of the top of the module so that the edge of the boarding lies along the inside edge of the locating recess. Grogan discloses a modular unit with a the load bearing boarding 42/44 that extends close to but not up to the outside perimeter of the top of the module so that the edge of the boarding lies along the inside edge of a locating recess. It would have been obvious to include the boarding in order to protect each individual modular unit as suggested by Grogan.

Claims 5 and 7,9 are objected to as depending upon a rejected base claim but would be considered allowable if amended to include the base claim and any intervening claim

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeanette chapman whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JEANETTE CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3633

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